

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): Byron Z. Moldo, SBN 109652 Moldo Davidson Fraioli Seror & Sestanovich LLP 2029 Century Park East, 21st Floor Los Angeles, CA 90067 Email: bmoldo@mdfslaw.com TELEPHONE NO.: 310-551-3100 FAX NO.: 310-551-0238 ATTORNEY FOR (Name): James H. Donell, Receiver		FOR COURT USE ONLY <div style="border: 2px solid black; padding: 5px; text-align: center;"> FILED CLERK U.S. DISTRICT COURT <div style="font-size: 1.5em; font-weight: bold;">FEB 12 2008</div> CENTRAL DISTRICT OF CALIFORNIA BY DEPUTY </div>
NAME OF COURT: United States District Court, Central District of California STREET ADDRESS: 312 North Spring Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District		
PLAINTIFF: SECURITIES AND EXCHANGE COMMISSION DEFENDANT: J.T. WALLENBROCK & ASSOCIATES, LARRY TOSHIO OSAKI, VAN Y. ICHINOTSUBO, AND CITADEL CAPITAL MANAGEMENT GROUP, INC.		
APPLICATION AND ORDER FOR APPEARANCE AND EXAMINATION <input checked="" type="checkbox"/> ENFORCEMENT OF JUDGMENT <input type="checkbox"/> ATTACHMENT (Third Person) <input type="checkbox"/> Judgment Debtor <input checked="" type="checkbox"/> Third Person		
		CASE NUMBER: CV 02-808 ER

ORDER TO APPEAR FOR EXAMINATION

1. TO (name): MARY E. OSAKI
2. YOU ARE ORDERED TO APPEAR personally before this court, or before a referee appointed by the court, to
 - a. ☐ furnish information to aid in enforcement of a money judgment against you.
 - b. ☒ answer concerning property of the judgment debtor in your possession or control or concerning a debt you owe the judgment debtor.
 - c. ☒ answer concerning property of the defendant in your possession or control or concerning a debt you owe the defendant that is subject to attachment.

Date: 3-24-08	Time: 2:00pm	Courtroom Number: 550 "Raybal"
Address of court <input type="checkbox"/> shown above <input checked="" type="checkbox"/> is: 255 E. Temple St LA 90012		

3. This order may be served by a sheriff, marshal, registered process server, or the following specially appointed person (name):

Date: 2/12/08

Stephen J. Johnson
 JUDGE OR MAGISTRATE JUDGE

This order must be served not less than 10 days before the date set for the examination.

IMPORTANT NOTICES ON REVERSE**APPLICATION FOR ORDER TO APPEAR FOR EXAMINATION**

4. ☐ Judgment creditor ☒ Assignee of record ☐ Plaintiff who has a right to attach order
 applies for an order requiring (name): Mary E. Osaki to appear and furnish information to aid in enforcement of the money judgment or to answer concerning property or debt.
5. The person to be examined is
 - ☐ the judgment debtor.
 - ☒ a third person (1) who has possession or control of property belonging to the judgment debtor or the defendant or (2) who owes the judgment debtor or the defendant more than \$250. An affidavit supporting this application under Code of Civil Procedure section 491.110 or 708.120 is attached.
6. The person to be examined resides or has a place of business in this county or within 150 miles of the place of examination.
7. ☐ This court is **not** the court in which the money judgment is entered or (attachment only) the court that issued the writ of attachment. An affidavit supporting an application under Code of Civil Procedure section 491.150 or 708.160 is attached.
8. ☐ The judgment debtor has been examined within the past 120 days. An affidavit showing good cause for another examination is attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: February 12, 2008

Byron Z. Moldo

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

APPEARANCE OF JUDGMENT DEBTOR (ENFORCEMENT OF JUDGMENT)

NOTICE TO JUDGMENT DEBTOR If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the judgment creditor in this proceeding.

**APPEARANCE OF A THIRD PERSON
(ENFORCEMENT OF JUDGMENT)**

(1) NOTICE TO PERSON SERVED If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the judgment creditor in this proceeding.

(2) NOTICE TO JUDGMENT DEBTOR The person in whose favor the judgment was entered in this action claims that the person to be examined pursuant to this order has possession or control of property which is yours or owes you a debt. This property or debt is as follows *(Describe the property or debt using typewritten capital letters)*:

ALL PROPERTY OR ASSETS OR INTEREST IN PROPERTY OR ASSETS OF LARRY OSAKI IN SATISFACTION OF A JUDGMENT IN THIS CASE IN THE AMOUNT OF OVER \$136 MILLION DATED DECEMBER 10, 2003.

1. COMMUNITY PROPERTY OF LARRY AND MARY OSAKI; AND
2. ASSETS OF LARRY OSAKI IN CONTROL OF MARY OSAKI DUE TO LARRY OSAKI'S INCARCERATION.

If you claim that all or any portion of this property or debt is exempt from enforcement of the money judgment, you must file your exemption claim in writing with the court and have a copy personally served on the judgment creditor not later than three days before the date set for the examination. You must appear at the time and place set for the examination to establish your claim of exemption or your exemption may be waived.

APPEARANCE OF A THIRD PERSON (ATTACHMENT)

NOTICE TO PERSON SERVED If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the plaintiff in this proceeding.

**APPEARANCE OF A CORPORATION, PARTNERSHIP,
ASSOCIATION, TRUST, OR OTHER ORGANIZATION**

It is your duty to designate one or more of the following to appear and be examined: officers, directors, managing agents, or other persons who are familiar with your property and debts.

16940.2

1 **BYRON Z. MOLDO, SBN 109652**
2 **SHANNON O.C. NELSON, SBN 251735**
3 **MOLDO DAVIDSON FRAIOLI**
4 **SEROR & SESTANOVICH LLP**
5 **2029 CENTURY PARK EAST, 21ST FLOOR**
6 **LOS ANGELES, CALIFORNIA 90067**
7 **Tel: 310\ 551-3100 • Fax: 310\ 551-0238**
8 **Email: bmoldo@mdfslaw.com**
9 **Email: snelson@mdfslaw.com**

10 **Attorneys for Plaintiff**
11 **James H. Donell, Receiver**

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **LOS ANGELES DIVISION**

15 **SECURITIES AND EXCHANGE**
16 **COMMISSION,**

17 **Plaintiff,**

18 **v.**

19 **J.T. WALLENBROCK &**
20 **ASSOCIATES, LARRY TOSHIO**
21 **OSAKI, VAN Y. ICHINOTSUBO, and**
22 **CITADEL CAPITAL MANAGEMENT**
23 **GROUP, INC.,**

24 **Defendants.**

CASE NO.: CV 02-808-ER (SHx)

DECLARATION OF BYRON Z. MOLDO
IN SUPPORT OF APPLICATION FOR
ORDER TO APPEAR FOR
EXAMINATION UNDER CAL. CODE
CIV. PROCEDURE §708.120

[Rule 69 Fed. Civ. P.: Cal. Code Civ. Proc.
§708.120]

[No Hearing Required]
Judge: Honorable Edward Rafeedie

25 **DECLARATION OF BYRON Z. MOLDO**

26 **I, BYRON Z. MOLDO, declare and state as follows:**

27 **1. I am an attorney at law, duly licensed to practice before the courts of the**
28 **State of California. I am an attorney with the law firm of Moldo Davidson Fraioli**
Seror & Sestanovich LLP, attorneys of record for Plaintiff, James H. Donell, Receiver
(the "Receiver") herein. I make this declaration in support of the Receiver's
Application for Order to Appear for Examination under Cal. Code Civ Proc.
§708.120, directed at Mary E. Osaki. I have personal knowledge of the facts set forth

1 herein, and if called upon to testify, I could and would competently testify thereto.

2 2. On December 10, 2003, this Court entered its "Order Granting SEC
3 Motion for Disgorgement, Prejudgment Interest, Civil Penalties and Final Judgment
4 (the "Judgment"). See **Exhibit A**.

5 3. At page 8, paragraphs 32 and 34, the Court granted judgment against
6 Larry T. Osaki in the sum of \$139,418,278, plus prejudgment interest of \$24,270,233,
7 and imposed civil penalties in the amount of \$100,000.

8 4. On March 22, 2005, Larry Osaki entered into a Plea Agreement in *United*
9 *States of America v. Larry Toshio Osaki et al.*, Case No. CR 03-1089-SVW and was
10 subsequently incarcerated under such Plea Agreement.

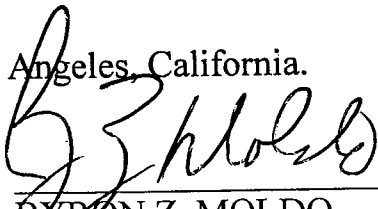
11 5. On December 7, 2006, this Court entered its "Order Authorizing Release
12 of Funds to Receiver, and Modifying Final Judgment Against Defendants" (the
13 "Order Releasing Funds"). See **Exhibit B**. The Order Releasing Funds, in part,
14 authorized the Receiver to institute and prosecute all actions and take steps that were
15 reasonable and appropriate to enforce and collect upon the Judgment.

16 6. I am informed and believe that Mary E. Osaki has or has had possession
17 and/or control of assets and property in which the judgment debtor, Larry T. Osaki
18 ("L. Osaki") has an interest, in that Mary E. Osaki was the wife of L. Osaki, and
19 remains his wife during the time of his incarceration.

20 7. I am informed and believe that Mary E. Osaki and L. Osaki have
21 community property assets in which Mary E. Osaki now has possession and complete
22 control of since L. Osaki has been incarcerated.

23 I declare under penalty of perjury under the laws of the State of California that
24 the foregoing is true and correct .

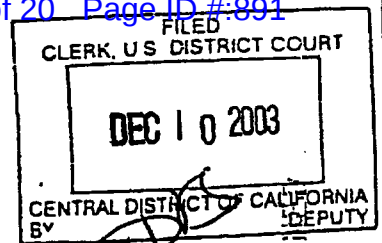
25 Executed on February 8, 2008, at Los Angeles, California.

26 
27 BYRON Z. MOLDO
28

2
DECLARATION OF BYRON Z. MOLDO IN SUPPORT
OF APPLICATION FOR ORDER TO APPEAR

EXHIBIT A

EXHIBIT A



Priority ☒
Send ☒
Enter ☒
Closed ☒
JS-5/JS-6 ☒
JS-2/JS-3 ☐
Scan Only ☐

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

J.T. WALLENBROCK &
ASSOCIATES, LARRY TOSHIO
OSAKI, VAN Y. ICHINOTSUBO,
AND CITADEL CAPITAL
MANAGEMENT GROUP, INC.,

Defendants.

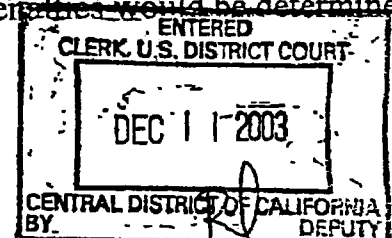
Case No. CV 02-808 ER

ORDER GRANTING SEC MOTION
FOR DISGORGEMENT,
PREJUDGMENT INTEREST, CIVIL
PENALTIES AND FINAL JUDGMENT

THIS CONSTITUTES NOTICE OF ENTRY
AS REQUIRED BY FRCP, RULE 77(d).

The Court has read and considered all papers filed in connection with the SEC's Motion for an Order Imposing Disgorgement, Prejudgment Interest, Civil Penalties and Final Judgment Against Defendants. On November 25, 2003, the Court conducted a hearing. For the reasons stated in open court, and based on the record, the Court has reached the following CONCLUSIONS:

[1] On February 28, 2003, the Court entered an Order of Permanent Injunction Against Defendants. The Current Motion is made by the SEC pursuant to the Permanent Injunction and Consent, which provided that the amount of disgorgement plus prejudgment interest and civil penalties would be determined by the Court upon subsequent motion by either party.



1 [2] From at least 1997 through January, 2002, Defendants Larry T. Osaki
2 and Van Y. Ichinotsubo operated a Ponzi scheme through Defendants J.T.
3 Wallenbrock, Inc. ("Wallenbrock") and Citadel Capital Management Group, Inc.
4 ("Citadel"). Defendant Larry T. Osaki and Van Y. Ichinotsubo operated a Ponzi
5 scheme through Defendants J.T. Wallenbrock and Citadel Capital Management
6 Group, Inc.. Defendant Osaki was the managing general partner of Wallenbrock,
7 the controlling owner of Defendant Citadel, and the operator of the entire scheme.
8 Defendant Ichinotsubo was an employee of Defendants Wallenbrock and Citadel,
9 and solicited investors for Wallenbrock.

10 [3] Defendants raised money from investors through the fraudulent sale of
11 unregistered three-month Wallenbrock promissory notes that promised a 20%
12 return for investors upon maturity of each three month period. Defendants made
13 fraudulent representations to potential investors that they were purchasing accounts
14 receivable of Malaysian latex glove manufacturers with the proceeds of investors'
15 notes. Defendants Osaki and Ichinotsubo knew, or were reckless in not knowing,
16 that their representations regarding the accounts receivable were false.

17 [4] Through the scheme, Defendants violated federal securities law antifraud
18 provisions, including Sections 10(b) and 15(c)(1) of the Securities Exchange Act of
19 1934 (and related Rules 10b-5 and 15c1-2), and Sections 17(a)(1), 17(a)(2), and
20 17(a)(3) of the Securities Exchange Act of 1933. Pursuant to the February 28,
21 2003 Permanent Injunction and Consent, Defendants are precluded from arguing,
22 in response to the current Motion, that they did not violate the federal securities
23 laws as set out in the SEC's Complaint.

24 [5] The Court has broad equity powers to order the disgorgement of 'ill-
25 gotten gains' obtained through the violation of the securities laws." SEC v. First
26 Pacific Bankcorp, 142 F.3d 1186, 1190 (9th Cir. 1998), *cert. denied*, 525 U.S. 1121
27 (1999)(citations omitted). The "purpose of disgorgement is to deprive a person of
28 ill-gotten gains and prevent unjust enrichment." Hateley v. SEC, 8 F.3d 653, 655

1 (9th Cir. 1993)(citations omitted).

2 [6] The amount of disgorgement need only be a reasonable approximation of
 3 profits linked to the fraudulent scheme. See SEC v. First Pacific Bankcorp, 142
 4 F.3d 1186, 1192 n.6 (9th Cir. 1998), *cert. denied*, 525 U.S. 1121 (1999)(citations
 5 omitted). Furthermore, “[t]he risk of uncertainty’ in computing disgorgement
 6 ‘should fall on the wrongdoer whose illegal conduct created that uncertainty.’”
 7 SEC v. Interlink Data Network, 1993 WL 603274 (C.D. Cal. 1993)(quoting SEC v.
 8 First City Financial Corp., 890 F.2d 1215, 1231 (D.C.Cir.1989))(citations omitted).

9 [7] The Court finds that the figures determined by the Samuel R. Biggs,
 10 CPA (the Receiver’s Accountant) and the Affidavit of Luz M. Aguilar, SEC Senior
 11 Accountant are a reasonable and accurate approximation of the profits of the
 12 fraudulent scheme, and related prejudgment interest calculations. The SEC notes
 13 that the Affidavit of Ms. Aguilar may be relied on for calculations fo prejudgment
 14 interest only, while Mr. Biggs’s affidavit may be relied on for other calculations.

15 [8] “Where two or more individuals or entities collaborate or have a close
 16 relationship in engaging in violations of the securities laws, they have been held
 17 jointly and severally liable for the disgorgement of illegally obtained proceeds”
 18 SEC v. First Pacific Bankcorp, 142 F.3d 1186, 1190 (9th Cir. 1998), *cert. denied*,
 19 525 U.S. 1121 (1999) Based on the record before the Court, Defendants Osaki,
 20 Wallenbrock, and Citadel evince such a “close relationship” and jointly profited
 21 from the fraudulent scheme. All investor funds flowed through Mr. Osaki, who
 22 deposited funds in his bank account, and controlled the distribution of such funds
 23 to Defendants Wallenbrock and Citadel.

24 [9] Defendants argue that Citadel is a mere nominal Defendant, who should
 25 not be subject to joint and several liability. Defendants fail to provide support for
 26 this contention. Defendant Citadel was a named Defendant in this litigation, and
 27 by the February 28, 2003 Permanent Injunction and Consent, Defendant Citadel is
 28 precluded from arguing that it did not violate the federal securities laws as set out

1 in the SEC's Complaint.

2 [10] As demonstrated by the accounting, Defendants Osaki, Wallenbrock,
3 and Citadel received at least \$253,173,962 from investors and spent a total of
4 \$250,135,353. \$113,755,684 of the money was repaid to investors, and are
5 therefore, deducted from the SEC's disgorgement request. The records also
6 indicate that \$136,379,670 was spent by Defendants Osaki, Wallenbrock, and
7 Citadel for their own benefit.

8 [11] The SEC requests that \$136,379,670 in ill-gotten gains obtained from
9 the scheme be disgorged from the Defendants Osaki, Wallenbrock, and Citadel.

10 [12] Defendants contend that the "reasonable approximation" should be
11 determined by the amount of a defendant's enrichment, rather than the losses
12 suffered by the victims. Defendants cite SEC v. First Pacific Bankcorp, 142 F.3d
13 1186, 1190 (9th Cir. 1998) & Hately v. SEC, 8 F.3d 653 to support the contention
14 that the Court must order disgorgement only of the personal benefit actually
15 retained, not the amount of ill-gotten gains generated.

16 [13] Defendants' description of the above decisions is inaccurate. The
17 Hately case stands for the proposition that amounts defendants held joint and
18 severally liable improperly exceeded the total amount of unjust enrichment, and
19 was more than ten times the amount of the defendants' actual ill-gotten gains.

20 [14] Courts are not restricted to disgorging the total amount of personal
21 benefit actually retained, as Defendants contend. The D.C. Circuit Court
22 concluded, "To hold, as [the defendant] maintains, that a court may order a
23 defendant to disgorge only the actual assets unjustly received would lead to absurd
24 results. Under [that] approach, for example, a defendant who was careful to spend
25 all the proceeds of his fraudulent scheme, while husbanding his other assets, would
26 be immune from an order of disgorgement. [This] would be a monstrous doctrine
27 for it would perpetuate rather than correct an inequity." SEC v. Banner Fund Int'l,
28 211 F.3d 602, 617 (D.C. Cir. 2000)(emphasis added).

1 [15] In addition, the SEC seeks the award of prejudgment interest on the
 2 disgorgement amount. The Court has broad discretion in deciding whether to grant
 3 such prejudgment interest and what rate should be used to calculate the amount of
 4 interest. See SEC v. First Jersey Securities, 101 F.3d 1450, 1476 (2d Cir. 1996)(citations omitted). Courts have used the Internal Revenue Service rates for
 5 underpayment of taxes, pursuant to 26 U.S.C. §6621(a)(2), in calculating
 6 prejudgment interest. See SEC v. Rosenfeld, 2001 WL 118612, *3 (S.D.N.Y. Jan.
 7 9, 2001).
 8

9 [16] Defendants argue that Prejudgment Interest, if awarded, should be
 10 calculated under 28 U.S.C. § 1961. Defendants offered no calculations, nor did
 11 Defendants explain in court why this rate was appropriate in this case. Defendants
 12 point to In Re Nucorp Energy, Inc., in which the Court calculated the Prejudgment
 13 Interest according to 28 U.S.C. §1961. In Nucorp Energy, the Court did note,
 14 “Title 28 U.S.C. § 1961 (1982 & Supp. IV 1986) is to be used for the calculation of
 15 prejudgment interest ‘unless the equities of a particular case demand a different
 16 rate.’ In Re Nucorp Energy, Inc., 902 F.2d 729, 734 (9th Cir. 1990)(citing In re
 17 Bloom, 875 F.2d 224, 228 (9th Cir.1989) (quoting Columbia Brick Works, Inc. v.
 18 Royal Ins. Co., 768 F.2d 1066, 1071 (9th Cir.1985))).

19 [17] The Court finds that the equities of this case warrant use of the Internal
 20 Revenue Service rates for underpayment of taxes, pursuant to 26 U.S.C.
 21 §6621(a)(2). This “rate reflects what it would have cost to borrow the money from
 22 the government and therefore reasonably approximates one of the benefits the
 23 defendant derived from its fraud.” SEC v. First Jersey Securities, 101 F.3d 1476.
 24 In addition, as the SEC noted, a small post-interest judgment rate of approximately
 25 1%, suggested by Defendants, would not fairly compensate victims of the scheme
 26 who were promised a 20% rate of return.

27 [18] Pursuant to the calculations based on the disgorgement amount and the
 28 rate under 26 U.S.C. §6621(a)(2), the SEC has demonstrated to the Court that

1 Defendants Osaki Wallenbrock and Citadel should be required to pay \$24,270,233
2 in prejudgment interest.

3 [19] The SEC argues that the following ill-gotten gains obtained from the
4 scheme should be disgorged from the Defendant Ichinotsubo, as he recruited
5 investors and significantly assisted the other Defendants in the fraudulent scheme,
6 with at least a reckless disregard re: the representations he made re: the existence
7 of the accounts receivable.

8 [20] The SEC requests that \$409,798 in ill-gotten gains obtained from the
9 scheme should be disgorged from the Defendant Ichinotsubo. The \$409,798
10 includes \$232,704 in payroll payments, \$36,503 in unpaid loans from Citadel
11 (made to Defendant Ichinotsubo personally and to Defendant Ichinotsubo's
12 company, Choice Investments), a \$50,000 unpaid loan to Choice Investments for
13 options trading, a \$60,591 credit card payment made by Osaki with investor funds
14 on Ichinotsubo's behalf, and a \$30,000 direct payment of investor funds from
15 Osaki's Bank Account.

16 [21] Pursuant to calculations based on the disgorgement amount and the rate
17 under 26 U.S.C. §6621(a)(2), the SEC contends that Defendant Ichinotsubo should
18 also be required to pay \$85,435 in prejudgment interest.

19 [22] Defendants argue that Defendant Ichinotsubo has invested \$1.2 million
20 and received only \$409,000 from Wallenbrock. Defendants argue that this loss
21 constitutes disgorgement, and urges that no further money should be disgorged.

22 [23] Such an argument has been rejected by the Ninth Circuit. In SEC v.
23 First Pacific Bankcorp, the Court noted, "Nor does the fact that [defendant's]
24 scheme ultimately failed and he lost a \$1,000,000 of his own funds release him
25 from his obligations toward the defrauded investors. As Judge Friendly once stated
26 in a securities manipulation case, there is 'no reason why, in determining how
27 much should be disgorged in a case where defendants have manipulated securities
28 so as to mulct the public, the court must give them credit for the fact that they had

1 not succeeded in unloading all their purchases at the time when the scheme
 2 collapsed.” SEC v. First Pacific Bankcorp, 142 F.3d 1186, 1192 n.6 (9th Cir.
 3 1998)(quoting SEC v. Commonwealth Chem. Sec. Inc., 574 F.2d 90, 102 (2^d CAMEL
 4 Cir.1978)). Therefore, Defendants’ argument regarding Defendant Ichinotsubo’s
 5 disgorgement must be rejected.

6 [24] The Court finds that the amount of disgorgement, joint and several,
 7 from Defendants Osaki, Wallenbrock, and Citadel, should be reduced to the extent
 8 of Defendant Ichinotsubo’s payments to prevent duplication of recovery.

9 [25] The SEC further argues for the imposition of Third-tier civil penalties
 10 against Defendants Osaki and Ichinotsubo, pursuant to 15 U.S.C. § 78t(d) and 15
 11 U.S.C. § 78u(d)(3).

12 [26] 15 U.S.C. § 78t(d)(2)(c) and 15 U.S.C. § 78u(d)(3)(B)(iii) provide
 13 third-tier civil penalties when securities law violations “involved fraud, deceit,
 14 manipulation, or deliberate or reckless disregard of a regulatory requirement [and]
 15 such violation directly or indirectly resulted in substantial losses or created a
 16 significant risk of substantial loss to other persons.”

17 [27] In the instant case, Defendants’ securities violations involved fraud and
 18 deceit, were numerous and ongoing. In addition, Defendants’ actions were extreme
 19 departures from the securities laws and created a significant loss to investors who
 20 purchased the Wallenbrock securities based on Defendants’ fraudulent behavior.
 21 See SEC v. Rosenfeld, 2001 WL 118612, *4 (S.D.N.Y.) Therefore, the imposition
 22 of Third-tier penalties appears to be appropriate.

23 [28] The maximum third-tier penalties provided by 15 U.S.C. § 78t(d)(2)(c)
 24 and 15 U.S.C. § 78u(d)(3)(B)(iii) are \$100,000 for a natural person. The Court finds
 25 that the imposition of the maximum penalties is appropriate considering Defendant
 26 Osaki’s and Ichinotsubo’s behavior.

27 [29] The SEC further requests that the civil penalties be paid to the Court
 28 Registry and added to the investor distribution fund, for the benefit of investors

1 harmed by the fraudulent scheme, pursuant to Section 308 of the Sarbanes-Oxley
2 Act of 2002. The Court finds the investor fund to be an appropriate recipient of the
3 penalties.

4 [30] The Court finds that for the aforementioned reasons, the reasons stated
5 in open court, and based on the record, that the SEC has demonstrated by a
6 preponderance of the evidence the appropriate amounts of Disgorgement,
7 Prejudgement Interest, and Civil Penalties. See SEC v. Truong, 98 F.Supp.2d
8 1086, 1096 (N.D. Cal 2000)(citing SEC v. Moran, 922 F. Supp. 867, 890
9 (S.D.N.Y. 1996)).

10 [31] The Court HEREBY GRANTS the SEC's Motion for an Order
11 Imposing Disgorgement, Prejudgment Interest, Civil Penalties and Final Judgment
12 Against Defendants.

13 [32] The Court ORDERS the imposition of disgorgement against Defendants
14 Osaki, Wallenbrock and Citadel, joint and severally of \$139,418,278 plus
15 prejudgment interest of \$24,270,233.

16 [33] The Court FURTHER ORDERS disgorgement against Defendant
17 Ichinotsubo of \$409,798 plus prejudgment interest of \$85,435.

18 [34] The Court FURTHER ORDERS the imposition of third-tier civil
19 penalties of \$100,000 each upon Defendants Osaki and Ichinotsubo, to be paid to
20 the Court Registry and added to the investor distribution fund

21 [35] The Court FURTHER ORDERS that the amount of disgorgement, joint
22 and several, from Defendants Osaki, Wallenbrock, and Citadel will be reduced to
23 the extent of Defendant Ichinotsubo's payments.

24 [36] The Court ORDERS that Defendants make the above payments within
25 30 days of the filing of this order.

26 //

27 //

28 //

1 IT IS SO ORDERED.

2 IT IS FURTHER ORDERED that the Clerk of the Court shall serve, by United
3 States mail or by telefax or by email, copies of this Order on counsel for the parties
4 in this matter.

5
6 Dated: DEC 10 2003

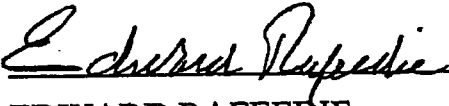
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10 Senior United States District Judge
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EXHIBIT B

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NOV - 9 2006
CENTRAL DISTRICT OF CALIFORNIA
SECURITIES & EXCHANGE
COMMISSION

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

FILED
CLERK, U.S. DISTRICT COURT
DEC - 7 2006
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

Case No. CV 02-00808 ER (SHx)

Plaintiff,

vs.

J.T. WALLENBROCK &
ASSOCIATES, LARRY TOSHIO
OSAKI, VAN Y. ICHINOTSUBO and
CITADEL CAPITAL
MANAGEMENT GROUP, INC.

Defendants.

~~Proposed~~ ORDER
AUTHORIZING RELEASE OF
FUNDS TO RECEIVER, AND
MODIFYING FINAL JUDGMENT
AGAINST DEFENDANTS

Honorable Judge Edward Rafeedie

The Court has read and considered all papers filed in connection with Plaintiff Securities and Exchange Commission's Motion for Order Authorizing Release of Frozen Funds to Receiver and Modifying Final Judgment against Defendants. On December 10, 2003, this Court entered a Final Judgment in which it ordered Defendant Van Y. Ichinotsubo to pay disgorgement of \$409,798, plus prejudgment interest of \$85,483, and a \$100,000 civil money penalty, and ordered Defendant Larry Toshio Osaki to pay \$139,418,278 plus prejudgment interest of \$24,270,233, and a \$100,000 penalty ("Final Judgment"). The intent was to have the payments added to an investor distribution fund established by the Receiver in this matter, James Donell. Certain assets of Defendant Ichinotsubo have been frozen pursuant to Orders Freezing Assets entered on January 28, 2002 and March 12, 2002 ("Asset Freeze Orders"). Defendants have not made any payments pursuant to the Final Judgment. Accordingly, **THE COURT HEREBY ORDERS, AS FOLLOWS:**

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1 The following funds which have previously been frozen under the Asset
2 Freeze Orders shall be submitted by check made payable to James H. Donell, the
3 court-appointed Receiver for J.T. Wallenbrock & Associates and Citadel
4 Management Group, Inc., and submitted to the Receiver's office, 12121 Wilshire
5 Blvd., Suite 200, Los Angeles, California, 90025:

6 a.) all of the funds in Morgan Stanley account numbers 209-085696,
7 209-066487, 209-066488, and 209-021811.

8 b.) all of the funds in Wells Fargo account numbers 0711-200642, and
9 6711-304675.

10 c.) all of the funds in Ameritrade (Advanced) account number
11 160532543.

12 d.) all funds in the Delaware Investments account number 008-
13 5089640067.

14 e.) all funds in the East West Bank accounts 00-3320090 and
15 11938024.

16 f.) all funds in the Pioneer Investments (Safeco Funds) account
17 number 147468.

18 g.) all funds in the Selected Funds account number 00420159643-2.

19 h.) all funds in the Vanguard Group account number 9851375710.

20 i.) all of the funds in Wells Fargo account numbers 0711-200642, and
21 6711-304675.

22 2. The Final Judgment entered against Defendant Ichinotsubo shall be deemed
23 satisfied to the extent of the amount of funds submitted to Mr. Donell, the
24 Receiver. The payments shall first be applied to disgorgement and prejudgment
25 interest, and then to the civil penalty. To the extent that the amounts transferred
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1 fall short of the amounts ordered in the Final Judgment, Defendant Ichinotsubo
2 remains liable to pay those amounts.

3 3. The Final Judgment is hereby modified in that Defendant Ichinotsubo's and
4 Defendant Osaki's payments of disgorgement, prejudgment interest and civil
5 penalties ordered in the Final Judgment shall be submitted and made payable to
6 Receiver James H. Donell and sent to his address of 12121 Wilshire Blvd., Suite
7 200, Los Angeles, California, 90025, with a cover letter identifying the defendant
8 making the payment; setting forth the title and civil action number of the this
9 action and the name of this Court; and specifying that payment is being made
10 pursuant to the Final Judgment.

11 4. The Final Judgment is hereby further modified in that James Donell, the
12 Receiver in this case, is hereby authorized to institute and prosecute all actions and
13 take such other steps that are reasonable and appropriate to enforce and collect
14 upon the Final Judgment in this matter.

15 **IT IS SO ORDERED.**

16
17 DATED: DEC 7 2006


HONORABLE EDWARD RAFEEDIE
UNITED STATES DISTRICT JUDGE
CENTRAL DISTRICT OF CALIFORNIA

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California; I am over the age of 18 years and am not a party to the within action. I am employed by the law firm of Moldo Davidson Fraioli Seror & Sestanovich LLP, located at 2029 Century Park East, 21st Floor, Los Angeles, California 90067, Telephone: (310) 551-3100, Facsimile: (310) 551-0238.

On **February 8, 2008**, I served the document(s) described as: **APPLICATION AND ORDER FOR APPEARANCE AND EXAMINATION/ENFORCEMENT OF JUDGMENT/JUDGMENT DEBTOR**, on the interested parties in said action by enclosing the document(s) in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

☒ **BY MAIL:** I caused such envelope(s) with postage thereon, fully prepaid, to be placed in the United States mail.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business.

☐ **BY FEDERAL EXPRESS/EXPRESS MAIL:** I caused said document(s) to be sent via Federal Express / Express Mail for next business day delivery.

☐ **BY FACSIMILE:** I caused said document(s) to be sent via facsimile.

☐ **BY PERSONAL SERVICE:** I caused said document(s) to be delivered to the addressees listed on the attached Service List.

☐ **[State]** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ **[Federal]** I declare that I am employed in the offices of a member of the State Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed on **February 8, 2008**, at Los Angeles, California.


TRISH MELENDEZ

SEC v. J. T. WALLENBROCK & ASSOCIATES
U. S. District Court/Central District Of California
Case No. CV 02-00808 ER (SHx)

SERVICE LIST

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Accountants for Receiver